



Requests to the Governor from the OPI Current to March 15th 2020

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OFFICE OF PUBLIC INSTRUCTION
STATE OF MONTANA

Putting Montana Students First **A⁺**



DATE: July 30, 2020

TO: Governor Steve Bullock

FROM: Superintendent Elsie Arntzen

RE: Clarifying Mask Directive as it Relates to K-12 Schools

Governor Bullock,

The Office of Public Instruction has received numerous calls from local education and health officials related to your mask directive issued on July 15, 2020. K-12 public schools are not directly discussed in the directive. During the press conference announcing this directive and subsequently in an email from one of your staff, it was stated that the mask directive does not apply to schools at this time. **Please confirm if schools are exempt from the mask directive.**

Additionally, please clarify the definition of school as it applied to the above directive. This could include sporting events, pupil transportation, afterschool programs, and other school-sponsored events. Local schools, families, health officials, and education partners must have clarification on which events the mask directive applies to.

I urge you to respect local control in education. These decisions should be made by locally elected Trustees in coordination with their local health departments to ensure a safe environment for students and educators. Thank you in advance for clarifying these questions for Montana schools. I can be contacted on my cell phone at 406-698-7845 or by email at elsie.arntzen@mt.gov.

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen".

Elsie Arntzen
Superintendent of Public Instruction

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DATE: July 23, 2020

TO: Governor Steve Bullock

FROM: Superintendent Elsie Arntzen

RE: Waiver of Onsite Learning Restrictions

Dear Governor,

Individual districts across Montana are determining how to safely re-open schools for Fall 2020. The model for learning in this time of a state declared emergency, has encouraged on-site, off-site, online, or a hybrid model which meets local needs. A significant number of districts are choosing a hybrid model striving to blend onsite learning with off-site learning.

Offsite enrollment is allowed under 20-7-118, MCA and the district providing offsite educational services can include for ANB funding purposes any pupils who are enrolled in the offsite program, but with restrictions. **The OPI requests the Governor issue a directive to temporarily waive the restrictive subsections of 20-7-118, MCA below:**

The provision of educational services at an offsite instructional setting by a district is limited to pupils:

- (a) meeting the residency requirements for that district as provided in 1-1-215;**
- (b) living in the district and eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or**
- (c) attending school in the district under a mandatory attendance agreement as provided in 20-5-321.**

This waiver will enable per-pupil ANB funding for districts that are providing offsite learning to students.

Thank you for your consideration of this request on behalf of our school districts. If you have any questions, I can be contacted on my cell phone at 406-698-7845 or by email at elsie.arntzen@mt.gov.

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen".

Elsie Arntzen
Superintendent of Public Instruction

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DATE: July 23, 2020

TO: Governor Steve Bullock

FROM: Superintendent Elsie Arntzen

RE: Follow Up on CRF Transportation Funding

Governor Bullock,

To follow up on the Coronavirus Relief Funds for pupil transportation, **I am requesting a conversation with you or your relevant staff as soon as possible to clarify the pupil transportation funding mechanisms in light of the timing constraints described below.**

County Transportation Committee meetings across our state are being held at this very moment regarding approval of bus routes and individual contracts per 20-10-132, MCA. These meetings need to occur before the fourth Monday in July in accordance with 10.7.101, ARM. With the impact of COVID-19, many of these routes may be amended for safely transporting our students per the CDC recommendations. The last date that school budgets must be adopted is Aug 25, 2020 as per 20-9-131, MCA.

Our office has not received any communication concerning the \$10M pupil transportation grant.

Thank you again for using Montana's CRF funds to support additional pupil transportation costs. I can be contacted on my cell phone at 406-698-7845 or by email at elsie.arntzen@mt.gov.

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen".

Elsie Arntzen
Superintendent of Public Instruction



DATE: July 20, 2020

TO: Governor Steve Bullock

FROM: Superintendent Elsie Arntzen

RE: Amendments to July 15th Directive on CRF Pupil Transportation Funds

Governor Bullock,

Regarding your July 15th directive allocating \$10 million for pupil transportation support from the Coronavirus Relief Funds (CRF), please see the below amendment requests from the Office of Public Instruction (OPI) to better ensure that these funds are used as effectively as possible:

- The process in statute for reimbursing districts for pupil transportation expenditures is based upon the County Transportation Committee and the OPI approval of individual bus routes and individual transportation contracts. The obligation for the OPI to pay its portion of the reimbursement is created with the approval of a bus route and the subsequent running of the route. (20-10-112(5), 20-10-112(6), 20-10-141, 20-10-145(2), MCA). This statutory obligation by the OPI does not go away just because the Governor grants CRF funds to school districts. If the Governor's Office distributes the CRF funds to school districts to offset the OPI's obligation to pay as stated in statute, there must be a lawful mechanism to allow the OPI to deduct the CRF payments from its calculated payments. This action by OPI of deducting the CRF Payments must be authorized by emergency directive of the Governor. **The OPI requests the Governor amend the July 15th Directive or issue a new directive, specifically instructing the OPI to "reduce its pupil transportation claims payments to school districts accordingly."**
- Once a transportation budget, County reimbursement, OPI reimbursement, and CRF payment has been calculated for a district, changes must be anticipated and a mechanism for determining the best use of the CRF funds must be established. For example, if a school district creates a budget assuming full pupil transportation but then is forced to close for a month and rely on remote learning, how will the district amend their budget and dispose of the CRF funds granted? **The OPI requests the Governor establish a process for amendment when a significant change to the pupil transportation plan occurs at a district.**

- Guidance must be given to school districts on how to document the expenditures for pupil transportation from the CRF funds for federal audits. Districts will not be able to label individual routes as "COVID-19" routes as a way of documenting an expenditure as an allowable expense. **The OPI requests the Governor issue guidance to school districts concerning appropriate documentation to show the funds were expended on allowable costs related to the COVID-19 pandemic.**

Thank you for using Montana's CRF funds to support Montana's public schools and students. Please consider these amendments and let me know your decision. If you have any questions please call me on my cell phone at 406-698-7845 or by email at elsie.arntzen@mt.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elsie Arntzen".

Elsie Arntzen
Superintendent of Public Instruction

Elsie Arntzen, Superintendent
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DATE: July 17, 2020

TO: Governor Steve Bullock

FROM: Superintendent Elsie Arntzen

RE: Communication Protocols to the Office of Public Instruction

Governor Bullock,

I am writing to clarify the process for how your staff and agencies that report to you request information from my staff at the Office of Public Instruction (OPI). As the elected official in charge of the OPI, requests to my agency need to come directly to me. I can be contacted at elsie.arntzen@mt.gov or my personal cell phone at 406-698-7845.

I along with my experts must be at the decision-making table, especially in the areas of COVID-19 directives and funding related to Montana's public schools. Any communications or requests, including those from your Office of Budget and Program Planning, will be directed to me through Director Livers or his designee.

The financial and regulatory implications of your COVID-19 decision-making have caused profound ripple effects in the areas of school law and finance which my agency oversees. To this point, you have acted in isolation from my agency. The experts at the OPI have had to respond to the unnecessary impacts of your directives, on local school districts, in ways that would not have been needed had you collaborated with me.

I am hopeful for cooperation and transparency between our offices moving forward as we serve our Montana students and schools. Please contact me next week.

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen".

Elsie Arntzen
Superintendent of Public Instruction

Elsie Arntzen, Superintendent

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DATE: July 14, 2020

TO: Governor Steve Bullock

FROM: Superintendent Elsie Arntzen

RE: Pupil Transportation Support from the Governor's Coronavirus Relief Funds

Dear Governor Bullock,

I am writing on behalf of Montana's public schools to request support from the Governor's Coronavirus Relief Funds (CRF) for anticipated increases to pupil transportation costs this coming school year. This request is due to increased bus routes as districts follow COVID-19 pupil transportation recommendations from the Centers for Disease Control and Prevention.

Under MCA 20-10-101 through 148, the state and county pay roughly 14% each of pupil transportation costs with the district paying the remaining 72%. I request that any additional pupil transportation costs for the 2020-2021 school year that are above what was paid in the 2019-2020 school year be covered by CRF.

The OPI has consistently heard from district administrators and county officials that pupil transportation could become one of the most expensive costs to schools safely reopening. Without this critical support, a significant share of this financial burden will impact county taxpayers in the form of increased levies.

As we thoughtfully and safely reopen Montana schools this fall, we are obligated to ensure schools have the resources they need to keep their students safe and deliver high-quality education services. While I equitably distributed nearly \$41 million in federal CARES Act funding to Montana school districts, it did not adequately cover the multitude of new expenses associated with safely reopening schools and transporting our Montana students.

Please let me know if you have any questions and thank you for considering this request on behalf of Montana's public schools, students, and taxpayers.

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen".

Elsie Arntzen
Superintendent of Public Instruction

Elsie Arntzen, Superintendent
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STATE OF MONTANA

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April 8, 2020

Governor Steve Bullock
Office of the Governor
PO Box 200801
Helena, MT 59620-0801

Dear Governor Bullock,

School leaders, teachers, students, and parents have done a tremendous job of responding to the unprecedented circumstances that their communities face in light of the COVID-19 outbreak in Montana. The alternative education plans that local trustees have certified to your office are being carried out with fidelity, ensuring that students receive equitable access to alternative education and nutrition services.

As you consult with health officials in two-week decision-making timeframes, school leaders and parents are asking for the ability to plan in a consistent manner for the short remainder of the 2019-2020 school year. Each district's school year calendar is different.

I request that you give local districts flexibility in how they finish out the academic year as you consider when to open school doors again. If the decision is made to reopen schools before a district's academic year is complete, I request that you allow school districts the option to continue operating under the alternative plans that have been approved or a mix of alternative learning with a partial return to school buildings, without penalty to the district.

Thank you for your consideration. I look forward to your response to this request and I am available to discuss this further.

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen".

Elsie Arntzen
Montana Superintendent of Public Instruction



March 19, 2020

TO: The Office of The Governor
ATTN: Raph Graybill, Chief Legal Counsel
RE: School Flexibility Requests Through Emergency Orders

Mr. Graybill,

Today I bring to your attention an important need for the Governor to clarify the scope of his March 15, 2020, executive order closing the State's public schools from March 16 through March 27, 2020. **It is imperative that the Order not be construed to shut down the business of public education in its entirety but, rather, to close Montana's public school buildings to regularly scheduled educational activities while requiring that each local school district continue to provide equitable education services to students in the form of distance learning, (that allows for delivery of instruction that works for each school community).**

The requested clarification will respect the flexibility granted to school districts by the Legislature to allow alternative instructional hours. See *Section 20-7-101(5) and (14), MCA, (off-site instruction)*; *Section 20-1-301, (off-site instruction)*; *Section 20-9-311(4)(d) and 20-1-301, MCA, (proficiency in content)*; and *Section 20-7-1602, MCA, (transformational learning)*.

This clarification is crucial to ensure that during this limited "closure" all school districts may continue to qualify for United States Department of Agriculture nutrition programs. The USDA has advised OPI that unless the schools are open in an operational sense and providing off-site learning opportunities for their students during the COVID-19 building closure, the USDA programs including the National School Lunch Program and the School Breakfast Program are not authorized. This leaves the Summer Food Service Program as the only fund available to feed students, and not all communities in Montana are eligible for this program. In short, if Montana's schools are deemed closed for all purposes under the Governor's order this program will terminate.

In summary the requested clarification of the Governor's school closure order will assure that school districts may continue to receive USDA funds to provide meals outside school buildings. Further it would create the expectation that teachers will continue to provide off-site educational services. Finally, in a time of great anxiety and uncertainty resulting from the COVID-19 pandemic, the requested clarification will provide to our school students some sense of stability and continuity in their lives and help them focus their energies on learning opportunities.

Thank you in advance for ensuring the Governor will consider the OPI's request for clarification and assistance to Montana public schools.



Julia W. Swingley
Chief Legal Counsel
Montana Office of Public Instruction



March 17, 2020

TO: The Office of The Governor
ATTN: Raph Graybill, Chief Legal Counsel
RE: School Flexibility Requests Through Emergency Orders

The OPI greatly appreciates the Governor's continued consideration of the OPI's requests to waive statutory requirements which restrict the local school districts from planning and administering their schools during this period of school closure.

Request 1:

Please have the Governor consider issuing a waiver of requirements in section 20-1-301, MCA, as the OPI had requested in its email of 3/15/2020. Pursuant to your request during the meeting of 3/16/2020, I provide the following proposed language for the Governor:

I am waiving any penalties that could affect Montana school districts that do not meet aggregate hours as required in section 20-1-301, MCA. This waiver does not relieve school districts from providing equitable educational services for students for the remainder of the school closure. I strongly advise school districts to work on providing equitable access to educational services, which may be directed to implementing proficiency policies for student learning, thus addressing aggregate hours as set forth in section 20-9-311(4)(d), MCA.

Request 2:

The OPI greatly appreciates the Governor's continued consideration of the OPI's requests to waive statutory requirements which restrict the local school districts from planning and administering their schools during this period of school closure.

Accordingly, the OPI respectfully requests the Governor consider waiving the underlined portions below, in section 20-10-145 and section 20-10-146, MCA. These two statutes control both state reimbursement and county reimbursement payment for school bus transportation. The OPI believes that underlined portions of section 20-10-145 and section 20-10-146, MCA, must be eliminated during the school closure and extending until June 30, 2020, to allow State and county funds for bus transportation reimbursement to continue to flow to local districts during and after the school closure.

The reimbursement provides a portion of a school district's budgeted transportation fund. The school district transportation fund allows districts to pay for district salaries and benefits for staff working in transportation, contracts with pupil transportation providers, and other necessary bussing needs. The OPI requests the underlined sections of the following statutes be waived through June 30th, 2020. Under this waiver, the state and county will continue to pay school districts for bus routes but not individual (parent's) transportation contracts. This will be as if the district operated as originally scheduled instead of "actual days." This payment will continue, allowing the districts to provide services for transportation services provided to student for school related instruction which can include delivery of lesson plans, nutritional services, and technology services.

20-10-145. State transportation reimbursement.

(1) A district providing school bus transportation or individual transportation in accordance with this title, board of public education transportation policy, and superintendent of public instruction transportation rules must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state transportation reimbursement is one-half of the reimbursement amounts established in 20-10-141 and 20-10-142 or one-half of the district's transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were actually rendered to transport eligible transportees, as defined in 20-10-101, to or from school to participate in the minimum aggregate hours of instruction required pursuant to 20-1-301. In determining the amount of the state transportation reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

20-10-146. County transportation reimbursement.

(1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment.

The OPI looks forward to discussing this further.

Thank you for consideration of this request. Please contact me with any questions.



Julia W. Swingley
Chief Legal Counsel
Montana Office of Public Instruction

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March 15, 2020

Governor Steve Bullock
Office of the Governor
PO Box 200801
Helena, MT 59620-0801

Dear Governor Bullock,

In light of the growing outbreak of the COVID-19 virus in Montana, I am requesting that you waive the per-pupil-instruction hour requirements for Montana schools as mandated in MCA 20-1-301 if the school has closed in consultation with their local or tribal health authorities and are making an effort to continue offering alternative education and nutrition services in an equitable manner. This would protect public health and safety by increasing social distancing while still ensuring that state funding flows to schools.

As you know, Montana is a local control state when it comes to education. We trust local health and education leaders to make the best decisions for their communities, with the support of state officials. The only entities that can close schools are local trustees, health authorities, or the Governor, with only the Governor having the ability to ensure school funding by waiving the requirements of MCA 20-1-301.

As of today, many school leaders across Montana are considering closing their schools to protect the health and safety of their students and staff. We have urged school leaders to notify the OPI if they plan to close school and to do so in consultation with local or tribal health authorities.

I want to commend local school leaders for their tremendous efforts in responding to the unique circumstances their communities face. As state leaders, we should support them in their efforts while respecting their local decision-making. I appreciate the continued dialogue between our offices as you make these decisions.

Sincerely,

A handwritten signature in cursive script that reads "Elsie Arntzen".

Elsie Arntzen
Montana Superintendent of Public Instruction